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SUBJECT: 2006-2007 GUINEA-BISSAU INCSR PART II:
FINANCIAL CRIME AND MONEY LAUNDERING

REF: STATE 157136

OVERVIEW

¶1. This cable is Part Two of the 2006-2007 National Narcotics Control Strategy Report (INCSR), Financial Crimes and Money Laundering report for Guinea-Bissau. Included is a narrative overview (paras 2-12). Para 13 contains responses keyed to the numbered questions beginning with Reftel paragraph 17.

¶2. Despite increased drug trafficking and the specter of oil production, Guinea-Bissau's instability and tiny economy make it an unlikely site for major money laundering, except as the placement point for proceeds from drug payoffs, theft of foreign aid and corrupt diversion of oil and other state resources, headed for investment abroad.

¶3. Guinea-Bissau has adopted the uniform AML law and hopes to have an operational FIU by the end of the year. Real progress, however, will be hampered if not entirely stalled by lack of capacity, corruption, instability, and distrust, particularly of the judicial sector. As one banker commented, Guinea-Bissau is small and the judiciary is indiscreet; accordingly only a blatant transaction would likely cause the bank to incur the risk of filing a STR.

¶4. Three banks operate in Guinea-Bissau. Western Union and MoneyGram are associated with the banks. The Central Bank of West African States (BCEAO), based in Dakar, is the Central Bank for the countries in the West African Economic and Monetary Union (WAEMU or UEMOA): Benin, Burkina Faso, Cote d'Ivoire, Guinea-

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Bissau, Mali, Niger, Senegal and Togo, all of which use the French-backed CFA franc currency, which is linked to the euro. The Commission Bancaire, responsible for bank inspections, is based in Abidjan.

¶5. On November 2, 2004, Guinea-Bissau became the third WAEMU country to enact the WAEMU Uniform Law on Money Laundering (the Uniform Law). The new legislation largely meets international standards with respect to money laundering; it does not comply with FATF recommendations concerning politically-exposed persons, and lacks certain compliance provisions for non-financial institutions. The law does not deal with terrorist financing.

¶16. On May 29, 2006, the Minister of Finance promulgated a decree establishing an FIU, although the FIU is not yet operational. As of the date of writing, members had been selected, but not yet appointed by the President. The FIU is expected to be in place by the end of the year, headquartered in the old BCEAO building in Bissau.

¶17. Official statistics regarding the prosecution of financial crimes are unavailable. There are no known prosecutions of money laundering.

¶18. The penal code of Guinea-Bissau criminalizes terrorist financing. However, there are no reporting requirements or attendant regulations. The BCEAO is working on a directive against Terrorist Financing. The directive is expected to be presented to the WAEMU Council of Ministers in December 2006. If adopted, the member states would be directed to enact a law against terrorist financing, which most likely would be presented as a Uniform Law in the same manner as the AML law. Because, like the AML law, it is a penal law, each national assembly must then enact the law. (NOTE: Since the uniform AML law was adopted by WAEMU in 2002, four of the eight member countries have enacted it. END NOTE.) In addition, the FATF-style regional body for the 15-member Economic Community of Western African States (ECOWAS), African Anti-Money Laundering Inter-governmental Group (GIABA) has drafted a uniform law, which it hopes to have enacted in all of its member states, not just the WAEMU states. GIABA will present its draft at a conference November 21-23 in Niamey.

¶19. The UN 1267 Sanctions Committee consolidated list is circulated both by the BCEAO to commercial

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financial institutions and the Ministry of Finance. To date, no assets relating to terrorist entities have been identified. The WAEMU Council of Ministers issued a directive in September 2002 requiring banks to freeze assets of entities designated by the Sanctions Committee.

¶10. Multilateral ECOWAS treaties deal with extradition and legal assistance. Other bilateral accords are not known. Under the Uniform Law, once established, the FIU may share information freely with other FIUs in WAEMU.

¶11. Guinea-Bissau is a party to the 1988 UN Drug Convention, has signed but not ratified the UN Convention against Transnational Organized Crime, and has not signed or ratified the UN Convention against Corruption. The status of the 1999 UN International Convention for the Suppression of the Financing of Terrorism and the African Union Convention on Terrorism Finance is not known.

¶12. The Government of Guinea-Bissau should continue to work with its partners in WAEMU and ECOWAS to establish a comprehensive anti-money laundering and counter-terrorist financing regime. Guinea-Bissau should fully install its FIU, and work to improve the training and capacity of its police and judiciary to combat financial crimes.

RESPONSES TO SPECIFIC REFTEL QUESTIONS

¶13. The following responses are to specific Reftel paragraphs/questions:

GENERAL QUESTIONS

Question 17: Is the country (or territory or

dependency) considered an important regional financial center (such as Hong Kong, Singapore, Panama, Switzerland, etc.)? What is its significance in terms of money laundering?

-- Guinea-Bissau is neither a regional financial center, nor is money laundering thought to be significant. Bissau's banking sector is governed by the BCEAO, which issues the euro-pegged CFA franc (CFAF). Along with the BCEAO, the "Commission bancaire" is a supranational supervisory entity, based in Abidjan, Cote d'Ivoire, created in April 1990 to control and oversee financial institution operations. There are three banks in Guinea-Bissau, two of which (Banco da Uniao and Banco Regionale de Solidariedade) have begun operations in the last year and have between 6,000 and 9,000 accounts each. The third bank, Banco da Africa Ocidental (BAO), began operating in 1999 as an investment bank and entered the retail market after the failure of then-other bank in Bissau, the Banco Internacional da Guine-Bissau, in 2002. As of 2004, the BAO had approximately 7,000 accounts.

Question 18: To the extent it is known, is money laundering/terrorist financing primarily related to narcotics proceeds? (If applicable, specify drug.) If not, what is the major source(s) of the proceeds? Also to the extent known, do the criminal proceeds laundered in the jurisdiction derive primarily from domestic or foreign criminal activity? Are the money laundering proceeds controlled by local drug-trafficking organizations, organized crime, or terrorist groups?

-- Guinea-Bissau is increasingly being used by drug traffickers transiting between Latin America and Europe. There is no evidence that drug proceeds are laundered in Bissau, however, other than proceeds that are used to buy off local officials or procure local cooperation. For example, two reputed-to-be Columbians were arrested in 2006 with over 600 kilos of cocaine. The two were later released and disappeared. It seems likely that drug proceeds were involved.

Question 19: Is there a significant black market for smuggled goods in the country? If so, do you believe it is significantly funded by narcotic proceeds or

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other illicit proceeds? Does contraband smuggling generate funds that are laundered through the banking system?

-- Arms smuggling is believed to be prevalent, and drug proceeds likely fund arms purchases.

Question 20: Does money laundering/terrorist financing occur in the banking system, within an offshore financial center or free trade zone, or in the non-bank financial system (e.g., exchange houses) or via alternative remittance systems such as hawala, or all areas? Is the country experiencing an increase in financial crimes, not limited to money laundering or terrorist financing, such as bank fraud and counterfeit currency? Please explain.

-- The banking sector demonstrated a relatively high awareness of money laundering risks and all banks reportedly had compliance programs in place. However, banking officials believed Bissau to be vulnerable to laundering, particularly via over- and under-invoicing of imports. Guinea-Bissau has no known free trade zones and is not linked to offshore centers. Official statistics regarding prosecution of financial crimes are unavailable.

Question 21: To the post's knowledge, do the country's financial institutions engage in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States?

-- Guinea-Bissau appears to be a transit point between Latin America and Europe and does not significantly affect the U.S. Bissau's financial institutions do not appear to have a significant role in laundering drug proceeds.

OFFSHORE FINANCIAL CENTERS

Questions 22 to 24: These questions are not applicable, and are not reproduced, as Bissau has no offshore banking or other institutions.

FREE TRADE ZONES

Question 25: Are there free trade zones operating in the jurisdiction? If so, please give the number and briefly describe operations, capability and function.

-- Bissau has no known free trade zones.

Questions 26 and 27 pertain to free trade zones and are not reproduced.

LAWS AND REGULATIONS TO PREVENT MONEY LAUNDERING

Question 28: Is money laundering a criminal offense in this country?

-- Yes, in 2004, Guinea-Bissau became the third WAEMU country to pass WAEMU harmonized legislation establishing a uniform law on money laundering.

Question 28 (continued): Does the law apply only to drug-related money laundering? Does the country list specific crimes or take an all serious crimes approach? Note: In some jurisdictions, anti-money laundering laws cover ?all serious crimes? which are defined as crimes that carry a threshold minimum sentence in the jurisdiction's penal code. If the country lists specific crimes, what offenses are covered? If there is a threshold minimum, what is that threshold?

-- Under the new legislation, the source of the proceeds can be any crime.

Question 29: Has the country enacted secrecy laws that prevent disclosure of client and ownership information by domestic and offshore financial services companies to bank supervisors and law enforcement authorities?

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-- The uniform law on money laundering enables banking information to be shared with law enforcement authorities. The law states: ?Notwithstanding all contrary legal provisions or rules, professional secrecy may not be invoked . . . to refuse providing information to the control authorities.?

QUESTION 30: Do current laws provide for the establishment and funding of a financial intelligence unit (FIU)?

-- The current law provides for the establishment, albeit not funding, of an FIU. A directive establishing an FIU was signed in May 2006, but the

FIU has not yet begun operations.

FINANCIAL SECTOR

Question 31: Who supervises and examines financial institutions for compliance with anti-money laundering/counter-terrorist financing laws and regulations?

-- The Banking Commission has the responsibility to supervise financial institution compliance with AML/CTF laws and regulations. The Commission reportedly has conducted some AML compliance examinations; however, due to the fact that half of the member states have not adopted the uniform law, its efforts have been limited.

Question 32: Are banks and other financial institutions required to know, record, and report the identity of customers engaging in significant transactions, including the recording of large currency transaction at thresholds appropriate to the country's economic situation? What is the statutory threshold?

-- National Assembly resolution number four in 2004 deals with money laundering. Article 26 stipulates that if a bank suspects money laundering it must obtain a declaration of all properties and assets from the suspect and notify the Attorney General who is then required to appoint a judge to investigate.

Question 33: Are banks and other financial institutions required to maintain for an adequate time records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related or other money laundering or terrorist finance cases? For how long?

-- The law requires financial institutions to preserve records for at least ten years.

Question 34: Are the money laundering controls applied to non-banking financial institutions, such as exchange houses, stock brokerages, cash couriers, casinos, insurance companies, etc., and to intermediaries, such as lawyers, accountants, or brokers/dealers? Who supervises such entities for compliance?

-- The law applies to a host of sectors, including all of those listed above and others. Some entities have government regulatory authorities; others (such as attorneys and accountants) have professional supervisory authorities, while others have no effective regulator.

Question 35: Do financial institutions report suspicious transactions? Is such reporting mandatory or voluntary? Is reporting required for all suspicious transaction, or is there a threshold amount below which suspicious transaction reports are not required? Are non-bank financial institutions required to report such transactions?

-- The law requires financial institutions to report suspicious transactions to the FIU; there is no minimum threshold. Non-bank financial institutions are also required to report. As yet, however, there is no FIU.

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